

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS**

JAN MORTON, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

THRIVE AGENCY LLC

Defendant.

Case No. 1:24-cv-1458

**JURY TRIAL DEMANDED**

**REQUEST FOR CLERK'S ENTRY OF DEFAULT AGAINST DEFENDANT**  
**THRIVE AGENCY LLC**

COMES NOW Plaintiff Jan Morton, by and through the undersigned counsel, pursuant to FED. R. CIV. P. 55(a), and hereby files this Motion for Clerk's Entry of Default against Defendant Thrive Agency LLC in the above-styled action. Plaintiff respectfully requests that the Clerk of Court enter default as the Defendant has failed to serve or file an answer to Plaintiff's claims in this action within the time permitted by law or otherwise.

Federal Rule of Civil Procedure 12(a), entitled "Time to Serve a Responsive Pleading," provides in pertinent part that "[a] defendant must serve an answer within 21 days after being served with the summons and complaint." FED. R. CIV. P. 12(a)(1)(A)(i). Federal Rule of Civil Procedure 55(a), entitled "Entering a Default," provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk *must* enter the party's default." FED. R. CIV. P. 55(a) (emphasis added).

Here, the Plaintiff filed his Complaint naming Thrive on November 23, 2024. (See ECF No. 1.) Defendant Thrive was served with the Summons and Complaint upon its registered agent

on December 11, 2024. (See ECF No. 4.) Accordingly, Defendant's responsive pleading was due on January 2, 2025. Defendant did not file a response as of February 19, 2025. Accordingly, the Plaintiff requests that the Clerk enter the Defendant's default pursuant to FED. R. CIV. P. 55(a).

The Plaintiff intends to move for leave to conduct discovery into the classwide claims shortly and potentially move for class certification prior to seeking a default judgment.

### **CONCLUSION**

WHEREFORE, for the reasons set forth herein, the Plaintiff respectfully requests that the Clerk of Court enter default against the Defendant pursuant to FED. R. CIV. P. 55(a).

RESPECTFULLY SUBMITTED AND DATED this February 19, 2025.

/s/ Andrew Roman Perrong  
Andrew Roman Perrong, Esq.  
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Glenside, Pennsylvania 19038  
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**CERTIFICATE OF SERVICE**

I certify that I filed the foregoing via ECF on the below date, which will automatically send a copy to all attorneys of record on the case.

I further certify that I mailed a copy of the foregoing to:

Thrive Agency LLC  
c/o: Registered Agents Inc.  
5900 Balcones Dr. Suite 100  
Austin, TX 78731

Dated: February 19, 2025

/s/ Andrew Roman Perrong  
Andrew Roman Perrong, Esq.  
(Pro Hac Vice)  
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